



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Michael P. Murphy
Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
ATLANTIC WASTE DISPOSAL, INC.
FOR THE
ATLANTIC WASTE DISPOSAL LANDFILL
Solid Waste Permit No. 562**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Atlantic Waste Disposal, Inc., regarding the Atlantic Waste Disposal Landfill, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Atlantic" means Atlantic Waste Disposal, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Atlantic is a "person" within the meaning of Va. Code § 10.1-1400.
2. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" or "Landfill" means the Atlantic Facility located at 3474 Atlantic Lane in Waverly, Virginia.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
8. "Permit" means Solid Waste Permit No. 562, which was issued under the Virginia Waste Management Act and the Regulations to Atlantic on December 29, 1993.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through 10.1-1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. On December 29, 1993, Atlantic was granted a permit to operate a sanitary Landfill by the Commissioner of the Virginia Department of Health, predecessor-in-interest to the Director of DEQ. The Permit allows for the disposal of sanitary waste.
2. The Facility has been operated as a sanitary Landfill since the Permit was issued. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.
3. On March 10, 2015, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act, the Regulations, and the Permit. Based on the inspection and follow-up information, Department staff made the following observations:
 - a. A flowing leachate seep was observed on the southern sideslope of Cell 5A. Leachate from the seep entered the stormwater conveyance channel at the toe of the slope and continued to flow to a culvert pipe which extended under the

perimeter road adjacent to the landfill. Leachate flowed from the pipe approximately 500 feet through a low area to a second road near the tree line. Leachate was observed entering a pipe located under this road. Leachate proceeded through this pipe and entered into the woods near Pigeon Swamp reaching a flowing channel. The channel extended from the near tree line through the woods and beyond the chain link fence. Leachate was actively being pumped via vactruck from the flowing channel in the woods near the tree line; however, Leachate flowed past the vactruck and continued another 250 feet to the chain link fence. Staff did not have access at the time to get beyond the fence.

4. 9 VAC 20-81-210(F) states "Leachate seeps. If a leachate seep(s) occurs, the owner or operator shall repair the seep(s) and do the following: 1) Take all immediate steps necessary to protect public health and safety including those required by the contingency plan, 2) Take immediate action to minimize, control, or eliminate the seep, and to contain and properly manage the leachate at the source of the seep, and 3) Any leachate released outside the lined area permitted for waste disposal shall be properly collected and disposed."
5. On April 1, 2015, the Department issued NOV No. 2015-04-PRO-651 to Atlantic for an unauthorized discharge of leachate to state waters and failure to take immediate steps to minimize, control or eliminate the leachate seep.
6. On April 28, 2015, the Department met with Atlantic to discuss the violations.
7. On June 8, 2015, Atlantic submitted a revised Leachate and Storm Water Management Plan. On June 8, 2015, the Department requested clarification on the changes in the plan. A response is pending. See the Schedule of Compliance listed in Appendix A.
8. Based on the results of the March 10, 2015 inspection, and the April 28, 2015, meeting, the Board concludes that Atlantic has violated 9 VAC 20-81-210(F), as described in paragraph C(3).
9. On July 15, 2015, the Department received a revised Leachate and Stormwater Management Plan. In order for Atlantic to complete its return to compliance, DEQ staff and representatives of Atlantic have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Atlantic, and Atlantic agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of \$26,000 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Atlantic shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Atlantic shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Atlantic for good cause shown by Atlantic, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Atlantic admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. Atlantic consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Atlantic declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Atlantic to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Atlantic shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Atlantic shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Atlantic shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.


9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Atlantic. Nevertheless, Atlantic agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Atlantic has completed all of the requirements of the Order;

- b. Atlantic petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Atlantic.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Atlantic from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Atlantic and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Atlantic certifies that he or she is a responsible official [or officer] authorized to enter into the terms and conditions of this Order and to execute and legally bind Atlantic to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Atlantic.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
- 15. By its signature below, Atlantic voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 29th day of OCTOBER, 2015.



Michael P. Murphy, Regional Director
Department of Environmental Quality

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Atlantic Waste Disposal, Inc. voluntarily agrees to the issuance of this Order.

Date: 9/22/15 By: [Signature], Director of Disposal Operations
Name Title
Atlantic Waste Disposal, Inc.

Commonwealth of Virginia

City/County of Sussex

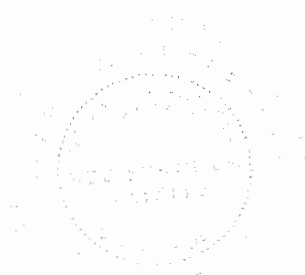
The foregoing document was signed and acknowledged before me this 22nd day of September, 2015, by H. Scott Thacker on behalf of the corporation.

[Signature]
Notary Public

285662
Registration No.

My commission expires: April 30, 2016

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Leachate Management

Atlantic shall respond to any Department comments or requests to modify the leachate and stormwater management plan (LSMP) submitted on July 15, 2015, within 10 days of notification from the Department. Once approved by the Department, the LSMP shall become a part of the Facility's operations plan.

2. Contact

Unless otherwise specified in this Order, Atlantic shall submit all requirements of Appendix A of this Order to:

Frank Lupini
Enforcement Specialist
VA DEQ –Piedmont Regional Office
4949A Cox Road,
Glen Allen, Virginia 23060
Frank.Lupini@deq.virginia.gov